

ORIGINAL

BEFORE THE BOARD OF REAL ESTATE APPRAISERS

# 3670

STATE OF IDAHO

RECEIVED

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OCCUPATIONAL LICENSES

In the Matter of the License of: )

THOMAS K. ROWLEY, )

License No. LRA-24, )

Respondent. )

Case No. REA-P3-04-99-005

**STIPULATED REPRIMAND**

**AND FINAL ORDER**

ORIGINAL

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WHEREAS, information having been received by the Idaho State Board of Real Estate Appraisers (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against Thomas K. Rowley (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

**A.**

1. The Board may regulate the practice of real estate appraisers in the State of Idaho in accordance with title 54, chapter 41, Idaho Code.

2. Respondent Thomas K. Rowley is a licensee of the Idaho State Board of Real Estate Appraisers and holds License No. LRA-24 to practice real estate appraisals in the State of Idaho. Respondent's license is subject to the provisions of title 54, chapter 41, Idaho Code.

3. On or about June 30, 1998, Respondent prepared an appraisal for the property located at 1200 Rapid Creek Road in Inkom, Idaho (hereinafter the "subject property").

4. Appraisals in the State of Idaho must comply with the minimum standards set forth in Standard 2 of the Uniform Standards of Professional Appraisal Practices (“USPAP”).

5. Respondent’s appraisal of the subject property included the following errors, all in violation of USPAP Standards Rule 2-1(a):

- a. The appraisal states that the flooring is carpeting when it is actually hardwood;
- b. The appraisal fails to identify a freestanding fireplace;
- c. The appraisal states that the bathroom has ceramic wainscoting when it does not; and
- d. The appraisal inaccurately depicts the fencing on the subject property.

6. The above-stated allegations, if proven, would constitute a violation of the laws and rules governing the practice of real estate appraisals, specifically Idaho Code § 54-4107(e) and IDAPA 24.18.01.700. Violations of these laws and rules would further constitute grounds for disciplinary action against Respondent’s license to practice real estate appraisals in the State of Idaho.

7. Respondent, in lieu of proceeding with a formal disciplinary action to adjudicate the allegations as set forth above, hereby admits the violations and agrees to the discipline against his license as set forth in Section C below.

**B.**

I, Thomas K. Rowley by affixing my signature hereto, acknowledge that:

1. I have read and admit the allegations pending before the Board, as stated above in section A. I further understand that these allegations constitute cause for disciplinary action upon my license to practice real estate appraisals in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses,

or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of real estate appraisals in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my license without further process.

**C.**

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. Respondent agrees to accept a reprimand by the Board for failure to ensure that his appraisal of the subject property complied with USPAP Standards.

2. Respondent shall pay an administrative fine of One Hundred and No/100 Dollars (\$100.00) to the Board postmarked no later than ten (10) days after the date of entry of the Board's Order.

3. Respondent shall pay investigative costs and attorney's fees in the amount of Two Hundred Fifty and No/100 Dollars (\$250.00) to the Board postmarked no later than thirty (30) days after the date of entry of the Board's Order.

4. The violation of any of the terms of this stipulation by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this stipulation.

**D.**

1. It is hereby agreed between the parties that this Stipulation shall be presented to the Board with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this Stipulation, and if rejected by the Board, a formal complaint may be filed against Respondent. Respondent hereby agrees to waive any right Respondent may have to challenge the impartiality of the Board to hear the disciplinary complaint if, after review by the Board, this Stipulation is rejected.

3. If the Stipulation is not accepted by the Board, it shall be regarded as null and void. Admissions by Respondent in the Stipulation will not be regarded as evidence against Respondent at the subsequent disciplinary hearing.

4. The Stipulation shall not become effective until it has been approved by a majority of the board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein shall be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a violation of Idaho Code § 54-4107. If Respondent violates or fails to comply with this Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board. Within twenty-one (21) days after the notice of hearing and charges is served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations will be deemed admitted.

b. At the hearing before the Board upon default, the Board and Respondent may submit affidavits made on personal knowledge and argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Consent Order. Respondent waives a hearing before the Board on the facts and substantive matters related to the violations described in Section A, and waives discovery,

cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

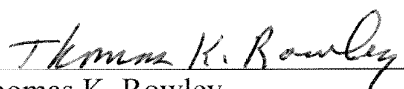
c. At the hearing, the Board will determine whether to impose additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license.

7. The Board shall have the right to make full disclosure of this Stipulation and Consent Order and the underlying facts relating hereto to any state, agency or individual requesting information, subject to any applicable provisions of the Idaho Public Records Act.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.


DATED this 28 day of October, 1999.

  
\_\_\_\_\_  
Thomas K. Rowley  
Respondent

I concur in this stipulation and order.

DATED this 29<sup>th</sup> day of October, 1999.

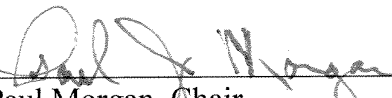
STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By   
for Kirsten L. Wallace  
Deputy Attorney General

**ORDER**

Pursuant to Idaho Code § 54-4106, the foregoing is adopted as the decision of the Board of Real Estate Appraisers in this matter and shall be effective on the 15<sup>th</sup> day of November, 1999. **IT IS SO ORDERED.**

IDAHO STATE BOARD  
OF REAL ESTATE APPRAISERS

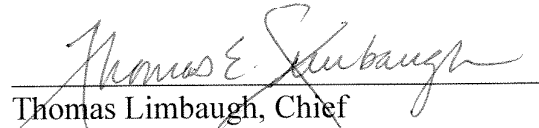
By   
Paul Morgan, Chair

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 29th day of November, 1999, I caused to be served a true and correct copy of the foregoing by placing a copy thereof in the United States Mail, postage prepaid, addressed to:

Thomas K. Rowley  
968 Gem Street  
Pocatello, ID 83201

Kirsten L. Wallace  
Deputy Attorney General  
P.O. Box 83720  
Boise, ID 83720-0010

  
\_\_\_\_\_  
Thomas Limbaugh, Chief  
Bureau of Occupational Licenses